

**Agreement
Between**

**AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES/CHILD CARE
PROVIDERS TOGETHER KANSAS**

and

**THE STATE OF KANSAS DEPARTMENTS OF
HEALTH AND ENVIRONMENT AND SOCIAL AND
REHABILITATION SERVICES**

February 2009

Preamble

The following agreement (hereinafter referred to as the Agreement) is made and entered into by and between the Kansas Department of Health and Environment (KDHE) and the Kansas Department of Social and Rehabilitation Services (SRS), specifically applicable to the SRS Division responsible for administering the child care development fund, child care quality initiatives and child care subsidy and the KDHE section responsible for child care licensing and registration activities (hereinafter referred to as the "State") and the American Federation of State, County and Municipal Employees-Child Care Providers Together Kansas (hereinafter referred to as the "Union"). This agreement is a result of the Governor's Executive Order No. 07-21 that instructs the Secretary of the Kansas Department of Health and Environment (KDHE) and the Secretary of the Department of Social and Rehabilitation Services (SRS) to recognize the Union as the exclusive majority representative of all persons who are registrants and licensees of family day care homes, licensed day care homes and group day care homes (hereinafter referred to as "Providers") and partner with the Union to develop a mutual written agreement.

This agreement between the State and the Union represents each parties' good faith efforts to work together on: child care quality standards; Provider training and professional development opportunities; rates for subsidized child care benefits; payment methods; health and safety conditions, monitoring and evaluation of Providers; and recruitment and retention of qualified Providers, and otherwise increase the overall quality of child care programs in Kansas.

All provisions of this agreement are subject to appropriations by the legislature. Nothing in this agreement constitutes an employer/employee relationship or an employer contract. This agreement does not grant status as state employees or agents of the state for any purpose.

Through this agreement the State and the Union agree to work in partnership to build a twenty first century child care system that promotes the safe, healthy development of the children of Kansas, respects and recognizes Providers, and complies with applicable state and federal regulations.

Article 1: Recognition and Exclusivity

Section 1 Recognition

Pursuant to Executive Order No. 07-21, the State recognizes the Union as the exclusive majority representative of all persons who are registrants and licensees of family day care homes, licensed day care homes and group day care homes (hereinafter referred to as "Providers"), for the purposes of developing a written mutual Agreement.

Section 2 Exclusivity

In recognition of the exclusive majority representation status of the Union pursuant to Executive Order 07-21, the State shall not meet or have discussion with any other union on matters pertaining to any specific provisions covered in this Agreement.

Article 2: Union Rights and Responsibilities

Section 1 Non-Discrimination

- A. The State agrees not to discriminate or retaliate against any Provider because of Union membership or lawful Union activities, or the exercise of any rights granted by this Agreement.
- B. As the exclusive majority representative of all Providers, the Union shall represent all Providers fairly in accordance with the terms and provisions of this agreement.

Section 2 Union Representatives

The Union shall notify the State of the names of its official representatives and any subsequent substitutions or additions to the list of official Union representatives. The written list of official representatives and any changes shall be delivered to the Secretaries of KDHE and SRS upon signing of the agreement or within seven (7) calendar days of any changes.

Section 3 Provider List

To ensure proper representation of Providers under the terms of this Agreement, the State will provide to the Union, Registered and Licensed Providers information in accordance with the provisions of the Kansas Open Records Act and K.S.A. 65-525 and amendment thereto, in writing or through electronic transmission. If needed, a reasonable fee for information may be required.

Section 4 Distribution of Union Information to Providers

- A. The State agrees to include one (1) piece of Union literature describing the history, purpose, and contact information, either in the form of a letter or pamphlet, in the renewal application packets sent to any prospective Provider in the state of Kansas. Any literature included in the renewal packets shall not contradict applicable state laws or regulations or the nature of this Agreement. The Union agrees to provide the State with an ample supply of Union literature for the purposes of complying with this provision.
- B. The State agrees to place a Union internet hyperlink and an internet hyperlink to this agreement on the main website page of KDHE for child care regulation and SRS for child care subsidy.

Section 5 Prior Written Notice of Policy Changes

- A. The State shall provide the Union with notice of any formally proposed policy changes or revisions that impact Providers and their contributions to child development in the state of Kansas. If possible, notice will be forty-five (45) calendar days before proposed implementation.
- B. The Union shall provide the State with notice of any formally proposed policy changes or revisions and legislation that impact the State. If possible notice will be forty-five (45) calendar days before proposed policy becomes effective or legislation is proposed.
- C. Upon notice of any formally proposed policy changes, the State and Union will strive to discuss those policy changes within the forty-five days notice period.

Article 3: State Rights and Responsibilities

Section 1 Accountability

The State remains ultimately accountable to the citizens and tax payers of Kansas through state and federal legislative processes. Nothing in this Agreement shall be contrary to any state and federal laws and regulations.

Section 2 Funding

Any policy or procedural changes resulting from this Agreement are subject to appropriation and shall be adequately funded, if needed, prior to implementation.

Section 3 Service Delivery

The State is responsible to adhere to all established policies, procedures and time lines related to child care regulation and Provider enrollment for the child care subsidy program.

Article 4: Mutual Rights

This article recognizes the rights of the State, Authorized Agents of the State, Union and Providers as delineated below.

1. The right of all parties to be treated as professionals with courtesy, dignity, consideration and respect.
2. The right for all parties to expect open communication and notification regarding changes in rules, regulations or policies affecting any of the parties to this agreement.
3. The right of all parties to notify the appropriate agency or organization of possible violations of this agreement without intimidation, retribution and retaliation.
4. The right of all parties to not be discriminated against because of race, color, gender, sexual orientation, gender identity, religion, national origin, ancestry, age, military or veteran status, or disability status.

Article 5: Provider Rights and Responsibilities

This article recognizes rights of the Providers as delineated below.

1. The right of Providers to request and obtain information in their file pursuant to the Kansas Open Records Act.
2. The right of Providers to impartial, complete and accurate regulatory inspections to determine compliance with licensing or registration requirements and the responsibility to participate in these inspections by providing access to all areas of the home, all reasonable information necessary to complete the inspection and accurate identification of all persons present.
3. The right of Providers to contact a person to be present to observe any regulatory inspection conducted by an authorized agent of KDHE or compliance visit by SRS without delaying or interfering with the inspection.
4. The right of Providers to request that authorized agents of KDHE and SRS provide reasonable information, including, but not limited to:
 - a. the name of the person or persons conducting the inspection, their contact information including the name of the agency each person represents, an agency identification card, badge or tag;
 - b. supervisor's name and telephone number;
 - c. the type and reason for any regulatory inspection;
 - d. a written description of the regulatory inspection process;
 - e. written documentation of regulatory inspection findings, including a clear explanation of those findings;
 - f. an opportunity to ask questions of the authorized agent conducting the inspection.

When a Provider requests the identification described in 4 a. and it is not presented, the Provider may refuse access until such time as it is provided.

5. The right of Providers to submit and to have placed in their files an explanation for noncompliance associated with a regulatory inspection.
6. The right of Providers to request, in accordance with KDHE policy and procedure, a program level review of any regulatory finding that the Provider believes may be in error.
7. The right of Providers to due process provided by the Kansas Administrative Procedures Act.
8. The right of Providers to request a hearing upon the issuance of an administrative order.
9. The right of Providers to choose to be Union members, to engage in lawful Union activities, and to exercise rights granted by this Agreement.

Article 6: Parents Rights

Nothing in this agreement shall be construed to interfere with parental rights to select or deselect Providers.

Article 7: Rate Structure Adjustment

Section 1 Structure

It is the intent of the State and the Union to cooperate in efforts to work towards achieving the federal benchmark of the 75th percentile of the most current market rate analysis compiled by the State or its contractors for state child care assistance subsidy to enable better access to child care. The parties agree to pursue an increase to the subsidy benefit rate for all county groupings and categories of providers through state budget cycles. Both parties agree to cooperate in requesting increased funding from the Legislature through the state budget process. Any benefit rate adjustments will be proportional to market rate percentiles.

Section 2 Funding Impact

- A. Any such benefit rate adjustment shall not interfere with or have cause to negatively impact Kansas benchmarks for the child care subsidy program which would include a downward adjustment to the income eligibility limit of 185% of the current federal poverty guideline or an upward adjustment of progressive family share deductions (co-payments/cost sharing) currently capped at 10% of the household income.
- B. If applicable, the State's first priority for funding requests to the legislature will be for caseload increases.

Article 8: Provider Recognition Day

The State shall recognize Kansas Child Care Provider Day on a mutually agreed day and month for each year during the term of this agreement.

Article 9: Payments, Records and Union Dues

Section 1 Payment

- A. The State shall complete and forward in a timely manner all paperwork necessary for Providers to enroll as a subsidy Provider to receive parent payments in a timely manner.
- B. The State and the Union agree to promote best and fair practices related to Provider fees for services and payment policies that apply to all parents whether they receive child care subsidy benefits or are a private pay customer.
- C. The State shall provide notice of families who are receiving child care subsidy benefits to the designated Provider which will include the effective date of the benefits and the children for whom benefits are authorized at the same time the family is notified they are approved for benefits.
- D. The State will make a reasonable effort in those documented cases wherein families who receive the child care subsidy benefits are unable to transfer benefits towards a bill incurred for an enrolled Provider to assist in the transfer of benefits. No amount will be transferred to the Provider that exceeds the parent's bill, excluding the parent share.
- E. The State shall notify Providers when subsidy benefits to parents are terminated prior to the original end date for children under their care at the same time notice is given to the parent.
- F. At no time shall a Provider charge a family who receives child care subsidy benefits more than they would a private pay family with children under the care of said Provider.

Section 2 Provider Payment Records

SRS will pursue a web based option for accessing payment information through the EBT system within 120 days after the signing of this agreement. Providers will be able to access parent payment information for the time period January 1, 2007 forward. Providers are responsible to maintain their own financial records.

Section 3 Provider Union Dues

- A. The Union represents all Providers and intends to collect Union dues from all Providers who are members of the Union.
- B. SRS enrolls a small subset of these Providers in the Child Care Subsidy Program. The dues paying Providers enrolled with SRS will be given the option to pay Union dues through an Electronic Benefit Transfer diversion option.

- C. The State and the Union have an interest in adequate availability to child care services for those families participating in the child care subsidy program, and the parties will work together to assure the collection of dues does not create and undue burden to Providers serving children receiving child care subsidy payments.
- D. For the State to enable this option, the following will occur:
 - a. Dues shall be a flat rate monthly fee.
 - b. The Union shall be responsible for gaining written authorization from Union members for the State to divert dues payments from members subsidy payments made by parents. The Union shall also cooperate with the State in resolving complaints and/or concerns of Union members regarding the dues diversion program.
 - c. The Union will assume all costs for system design and implementation of dues diversion.
 - d. The Union will assume all e-Funds transactions and maintenance fees for dues diversion.
 - e. The Union agrees to provide periodic, on-going assurances that dues are being collected from non-SRS Providers who are members, including information regarding methodology used to collect dues and number of Providers participating.

Article 10: Maintaining the Health and Wellness of Providers

In recognition that the health and wellness of Providers has an impact on their ability to meet the needs of young children entrusted into their care, the State and Union agree to promote the health and wellness of all Providers working with young children. The State and the Union further agree to work together to share information concerning access to public health services in Kansas to assist Providers in local communities. The State agrees to provide contact information and introduction of Union representatives with representatives of the Kansas Health Policy Authority to enable the sharing of information concerning comprehensive health insurance coverage that might be available to Providers.

Article 11: Collaboration on Systems Improvement to promote Safety, Standards of Care and Child Care Quality.

Section 1 Child Care Licensing Systems Improvement Best Team Participation

- A. The State and Union agree that well designed and implemented licensing systems, including foundational standards of care (regulations), inspections and sanctions play critical roles in ensuring the health and safety of children in child care. To design and keep contemporary a licensing system that takes into account the needs of Providers to provide safe, quality child care services that are affordable, accessible and available, the State agrees to include Union representation on the Child Care Licensing Systems Improvement Best Team (Best Team) to advise the State on matters related to the licensing system.
- B. As a stakeholder on the Best Team, the Union agrees to partner with the State using a consensus based approach to advise and promote systems improvements including but not limited to:
 - a. Child care regulation revision including the definition of an infant and a school age child, ratios, qualifications, and total number of children permitted;
 - b. Policy development and implementation including communication of policy changes, inspection protocols and the use of sanctions;
 - c. Legislative and funding issues;
 - d. Processes for continuous quality improvement including quality assurance, overall program design, service delivery, timeliness and implementation issues, and a process for resolving differences and responding to Provider complaints;
 - e. Provider Recognition;
 - f. Professional Development including the exploration of an individual credentialing system;
 - g. Collection and dissemination of data and information about the child care licensing system including the capability for reporting statistical data regarding noncompliance with regulations cited at inspections and enforcement data;
 - h. Increased methods of communication and collaboration; and
 - i. Coordination with other state initiatives that are intended to improve the quality of child care.

Section 2 Funding for a Health and Safety Promotional Fund

The State and Union agree to research and if possible jointly propose funding options for grants to provide resources to assist Providers in improving the health, development and safety of children in child care and to assist in complying with regulatory requirements.

Article 12: Professional Development

The State and Union agree to encourage opportunities for Providers to engage in professional development activities that will improve Provider success and support good outcomes for children and their families. Professional development learning activities improve the quality of child care practices, child care environments and improve compliance with regulations.

Section 1 Collaboration for Professional Development System Planning

The goal of the Professional Development System Plan is to develop a comprehensive system of professional development that is focused on Provider outcomes, regardless of setting, that promotes positive child outcomes, and supports the early learning guidelines and core competencies. The State and the Union agree to encourage Provider professional development as an integral part of statewide efforts to provide children with optimal opportunities to learn and grow. The State agrees to facilitate Union representation in the state wide Kansas Professional Development Systems Planning in partnership with all stakeholders including but not limited to infrastructure and governance, funding, quality assurance, career path and qualifications, core competency revision and access and outreach.

Section 2 Professional Development and Mentoring

The State and the Union agree to research and if possible jointly propose a mentoring system to improve Provider success, child care practices and compliance with standards of care as a part of the overall planning for Professional Development.

Section 3 Professional Development Related to Health and Safety of Children

The State and Union agree to encourage increased learning opportunities for health and safety courses for Providers including but not limited to:

- a. Orientation to child care regulations and compliance;
- b. Pediatric First Aid;
- c. Pediatric Cardiopulmonary Resuscitation (CPR) or rescue breathing;
- d. Recognizing and Reducing Child Abuse and Neglect;
- e. Reduction of Risk for Sudden Infant Death Syndrome; and
- f. Environmental Risk Reduction such as Playground Safety.

Article 13: State and Provider Cooperation Committee (SPCC) and Resolution of Concerns

Section 1 State and Provider Cooperation Committee (SPCC)

- A. The State and the Union agree to develop and maintain a State and Provider Cooperation Committee (SPCC) for the purpose of discussing issues of mutual concern; cooperating in the implementation of this agreement; resolving issues with the agreement that have a widespread systemic impact on the field affecting multiple agencies or multiple individuals; and other challenges of mutual concern in a non-adversarial, consensus based collaborative process. The State and the Union are each responsible for paying their own expenses for attending SPCC meetings and preparing for meetings.
- B. The SPCC Committee will be made up of three (3) co-chairs and five (5) delegates for a total of eight (8) appointed committee members. The State will appoint one (1) co-chair and one (1) delegate from each agency. The Union will appoint one (1) Provider co-chair and three (3) Provider delegates for appointment to the SPCC Committee. The Committee shall have terms and conditions for Committee membership including replacement of appointees when necessary. The co-chairs will organize training about the agreement for the SPCC within ninety (90) calendar days of the ratification of this agreement. Thereafter, the co-chairs will cooperate to insure that the SPCC meets at least annually. The parties shall exchange agenda items at least two (2) weeks prior to each scheduled meeting of the SPCC.

Section 2 Resolving issues of mutual concern with the agreement

- A. Within thirty (30) calendar days of being notified in writing of an issue with the agreement, the co-chairs shall confer informally by telephone, email or other informal means to attempt to resolve the issue. Individual situations shall be addressed respectively through the State's or the Union's established procedures for addressing individual concerns. Systemic issues shall be identified and addressed by the co-chairs or by the SPCC team.
- B. When systemic issues are identified by a co-chair, the co-chairs shall first confer informally and attempt to resolve the issue. When the informal process does not resolve the issue, a co-chair may determine the matter needs to be brought to the SPCC team for further discussion and resolution. When a co-chair requests a meeting of the SPCC team to resolve a systemic issue, the meeting shall take place within ninety (90) calendar days of the request unless another time is mutually agreed on.
- C. The initiating co-chair shall schedule the meeting and, at least two (2) weeks prior to the meeting, provide a written notification of the issue that includes the following:
 - a. Statement of the issue and relevant facts;
 - b. Specific provision or provisions of the Agreement at issue; and
 - c. Specific resolution sought.

- D. The SPCC shall use a collaborative non-adversarial consensus based process to resolve systemic issues. The State and the Union recognize that resolving systemic issues may also affect organizations and individuals who are not a party to this agreement but who may need to be consulted in order to resolve the issue for all entities affected.

Article 14: Complete Agreement

This Agreement is the full and complete Agreement between State and Union resulting from discussion held pursuant to the provisions of the Executive Order 07-21. It is acknowledged that, during discussions which resulted in this written mutual Agreement, each and all had the unlimited right and opportunity to make proposals and amendments with respect to any subject or matter appropriate for this process, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this written mutual agreement.

Article 15: Savings Clause

In the event any provision of this Agreement is declared invalid by any court of competent jurisdiction, then only such portion or portions shall become null and the balance of the Agreement remains in effect. The State and Union agree to convene the SPCC to meet and agree upon a resolution to the portion or portions of this Agreement declared invalid.

Article 16: Term of Agreement

- A. This Agreement shall be for three (3) years and shall be effective 90 calendar days after date of signature and shall remain in full force and effect until February 28, 2012.
- B. Either one of the parties shall request in writing, at least ninety (90) calendar days prior to expiration, to renew or amend this Agreement.
- C. All parties agree to cooperate in good faith to implement this Agreement in a timely manner.

Article 17: Distribution of Agreement

This agreement shall be electronically available to comply with Article 2: Section 4 of this agreement.

The undersigned approve this agreement which shall be effective on the execution hereof by all parties.

Kansas Department of Health and Environment

By  Date 2/27/2009


Roderick L. Bremby, Secretary

Kansas Department of Social and Rehabilitation Services

By  Date 2/27/2009

Don Jordan, Secretary

AFSCME/CCPT

By  Date 2-27-2009

Mark Langevin, Chief Negotiator

AFSCME/CCPT

By  Date 2/27/09

Don Zavodny, Director of AFSCME Council 72

CCPT-Kansas

By  Date 02/27/2009

Scott Keller, President

CCPT-Kansas

By  Date 3/4/09

Jacquelyn Asher, Member Representative

CCPT-Kansas
By Christine Birney Date 2.27.2009
Christine Birney, Member Representative

CCPT-Kansas
By Patricia M. Drew Date 2/27/09
Patricia Drew, Member Representative

CCPT-Kansas
By Lillie Glover Date 3/4/09
Lillie Glover, Member Representative

CCPT-Kansas
By Leah Hammer Date 3/3/09
Leah Hammer, Member Representative

CCPT-Kansas
By Ebony M. Hart Date 2/27/2009
Ebony Hart, Member Representative

CCPT-Kansas
By Traci Rutledge Date 2-27-09
Traci Rutledge, Member Representative

CCPT-Kansas
By Cheryl Schuler Date 3/5/09
Cheryl Schuler, Member Representative

CCPT-Kansas

By Lucinda Stanley Date 2/27/09

Lucinda Stanley, Member Representative

CCPT-Kansas

By Ceolia Witt Date 2/27/2009

Ceolia Witt, Member Representative

CCPT-Kansas

By Marcus Wyatt Date 2/27/09

Marcus Wyatt, Member Representative